

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DIGITAL REG OF TEXAS, LLC,

Plaintiff,

v.

ADOBE SYSTEMS, INC., et al.,

Defendants.

No. C 12-1971 CW

ORDER ON  
ADMINISTRATIVE  
MOTIONS TO SEAL

(Docket Nos. 783,  
785, 799)

Before the Court are several administrative motions to seal. Under Civil Local Rule 79-5, a document may be filed under seal only if a party establishes that the portions sought to be sealed "are privileged, protectable as a trade secret or otherwise entitled to protection under the law." Civ. L.R. 79-5(b). Any sealing request must be narrowly tailored to cover only sealable material. Id. The request must be supported by the designating party's declaration establishing that the information is sealable. Id. subsection (d).

"Historically, courts have recognized a 'general right to inspect and copy public records and documents, including judicial records and documents.'" Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). In considering a sealing request, the Court begins with "a strong presumption of access [as] the starting point." Id. The documents sought to be filed under seal in this case are related to motions for attorneys'

fees, a non-dispositive motion. A party seeking to seal materials related to non-dispositive motions must show good cause by making a "particularized showing" that "specific prejudice or harm will result" should the information be disclosed. Id. at 1179-80; Fed. R. Civ. P. 26(c). "[B]road, conclusory allegations of potential harm" will not suffice. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1131 (9th Cir. 2003).

The Court now assesses each motion in turn.

Docket No.	Ruling
783	<p>Defendant Adobe seeks to file under seal an unredacted version of its Motion for Attorneys' Fees and Exhibits 1, 2 and 4 to the declaration filed in support of its motion. The redacted version of the Motion for Attorneys' Fees omits proposed settlement values. Exhibit 1 contains excerpts from the Deposition of inventor Patrick E. Patterson. Exhibit 2 contains excerpts from the Deposition of Carl Vernon Venters, Digital Reg's principal. Exhibit 4 contains excerpts from the Expert Report of Russell Parr relating to Digital Reg's damages.</p> <p>In support of its motion, Adobe submits a declaration from Byron C. Beebe. Mr. Beebe explains that the materials sought to be filed under seal have been designated as "Confidential" or "Highly Confidential - Outside Counsel Only" by Plaintiff Digital Reg. As the designating party, Digital Reg has an obligation under Civil Local Rule 79-5(e) to</p>

1		file a declaration establishing the designated
2		material as sealable within four days of the filing
3		of the Administrative Motion to File Under Seal.
4		Digital Reg has not filed such a declaration.
5		Accordingly, the motion is DENIED (Docket No.
6		783). The Court refers Adobe to Civil Local Rule
7		79-5(e) (2) for further instruction.
8	785 (as	Adobe seeks to file under seal an unredacted
9	amended by	version of its Motion for Attorneys' Fees and
10	Docket No.	Exhibit 5 to the declaration filed in support of its
11	793)	motion. In addition to the settlement value
12		originally redacted in Docket No. 783, this version
13		of the Motion for Attorneys' Fees also redacts
14		Digital Reg's proposed settlement value. Exhibit 5
15		(original version of admitted trial exhibit 184) is
16		a table listing the amount for which Digital Reg
17		settled various patent claims.
18		In support of its motion, Adobe submits a
19		declaration from Edward R. Reines. Mr. Reines
20		explains that the redacted information has been
21		designated as "Confidential" or "Highly Confidential
22		- Outside Counsel Only" by Digital Reg or Symantec;
23		however, no party has filed a declaration stating
24		why the information is sealable as required by Civil
25		Local Rule 79-5(e) (1).
26		Accordingly, the motion is DENIED (Docket No.
27		785). The Court refers Adobe to Civil Local Rule
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1		79-5(e) (2) for further instruction.
2	799	Digital Reg seeks to file under seal an
3		unredacted version of Digital Reg's Opposition to
4		Adobe's Motion for Attorneys' Fees. In support of
5		its motion, Digital Reg submits a declaration from
6		W. Paul Schuck. Mr. Schuck explains that the
7		redacted portions disclose details of Digital Reg's
8		patent license terms and royalty rates and Adobe's
9		software piracy rates. He argues that public
10		disclosure of Digital Reg's patent license terms and
11		royalty rates would weaken Digital Reg's position in
12		future license negotiations or in resolving
13		litigation. The Court finds good cause to grant the
14		motion as to the portions designated confidential by
15		Digital Reg. Digital Reg's request is narrowly
16		tailored and the redactions contain information
17		falling within the class of materials that may be
18		filed under seal.
19		With regard to Adobe's software piracy rates,
20		Mr. Schuck explains that Adobe has designated this
21		information as confidential; however, Adobe has not
22		filed a declaration stating why this excerpt is
23		sealable as required by Civil Local Rule 79-5(e).
24		Accordingly, the motion is denied with respect to
25		the information designated as confidential by Adobe.
26		Thus, the motion is DENIED in part and GRANTED
27		in part (Docket No. 799). The Court refers Adobe to
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Civil Local Rule 79-5(f)(3) for further instruction.

CONCLUSION

For the reasons set forth above, Adobe's administrative motion to seal (Docket No. 783) is DENIED; Adobe's amended administrative motion to seal (Docket No. 785) is DENIED; and Digital Reg's administrative motion to seal (Docket No. 799) is DENIED in part and GRANTED in part.

IT IS SO ORDERED.

Dated: February 11, 2015

  
CLAUDIA WILKEN  
United States District Judge